

## REMARKS

Claims 1-27, 29, 31-33, and 53-65 are pending. Claim 1, 4, 7, 9, 11, 21-23, 29, 31-33, and 53-55 have been previously presented. Claims 2, 3, 5, 6, 8, 10, 12-20, and 24-27 are original. Claims 28, 30, and 34-52 have been canceled. No new matter has been introduced by the previous amendment.

### 1. Claim Rejections under 35 U.S.C. § 103(a)

Claims 1-8 and 53-65 have been rejected under 35 U.S.C. §103(a) over McEntee et al. (U.S. Pat. Pub. No. 2004/0050701) in view of Paolini et al. (U.S. Pat. Pub. No. 2002/0131147). Claims 9-27, 29, and 31-33 have been rejected under 35 U.S.C. §103(a) over McEntee in view of Montgomery (U.S. Pat. No. 6,280,595), and further in view of Paolini. The Applicant respectfully traverses these rejections.

As argued in the prior responses, the Applicant respectfully submits that McEntee and Paolini do not teach or suggest any emulsion including an electrically insulative continuous phase, the emulsion comprising a surfactant not significantly reducing the volume resistivity of the continuous phase, as recited in independent claims 1, 4, 7, and 9. Also, McEntee and Paolini do not teach or suggest that the substrate comprises a support, a conductive layer on the support, a dielectric layer of a material which will hold an electric charge disposed on the conductive layer, and a chemically functional layer on the dielectric or photoconductive layer, as recited in independent claims 1, 4, 7, and 9. Montgomery does not overcome these deficiencies of McEntee and Paolini. The Applicant incorporates herein these arguments from the prior responses.

The Examiner asserted that the arguments in the November 19, 2009 response to the June 23, 2009 Office Action are “considered repetitive and not persuasive for the same reasons as described in detail in the office action mailed June 23, 2009.” Office Action, page 17. The Applicant respectfully submits that at

least the Applicant's argument as to the chemically functional layer was first presented in the November 19, 2009 response, and consideration of this argument is respectfully requested.

In the Amendment dated March 16, 2009, independent claims 1, 4, 7, and 9 were amended to recite "wherein the substrate comprises a support, a conductive layer on the support, a dielectric layer of a material which will hold an electric charge disposed on the conductive layer, and a chemically functional layer on the dielectric layer." In the June 23, 2009 Office Action at page 20, and further articulated in the interview dated September 15, 2009, the Examiner asserted that McEntee discloses a chemically functional layer because McEntee discloses *in situ* synthesis of DNA and RNA microarrays, and thus it is inherent that the substrate of McEntee has a chemically functional layer in order for the DNA and RNA moieties to be immobilized to the substrate.

In the November 19, 2009 response to the June 23, 2009 office action and the September 15, 2009 interview, the Applicant traversed this reasoning of the asserted rejection. Specifically, the Applicant argued that

There is, however, no disclosure in McEntee as to whether the immobilization in the *in situ* synthesis is chemical or physical. If the immobilization is, for example, by physical adsorption, it would not require a chemically functional layer. Thus, the Examiner's inherency argument fails because the mere fact that McEntee discloses *in situ* synthesis does not mean this reference necessarily teaches a chemically functional layer.

Response dated November 19, 2009 at page 4.

The Applicant further respectfully submits that the language of paragraph [0057] of McEntee to which the Examiner has drawn our attention explicitly states that a mask placed directly upon the photoconductive layer "is protected from ambient light" and then an array pattern is formed onto the photoconductor

(paragraph [0065]) and the synthesis is performed upon the photoconductor in that array pattern. There is clearly no additional layer. The Examiner's assertion is that by inference the photoconductor must be a functional layer. While this may or may not be so, it is clear that McEntee provides a construction which is not the same construction as that claimed. Independent claims 1, 4, 7, and 9 clearly state that there is an additional layer on the photoconductor, not that the photoconductor layer has an additional function.

There is good reason to supply an additional layer, the chemically functional layer, as is discussed on page 11, lined 16 to 22 of the present specification. The chemically functional layer protects the photoconductor from the chemicals of the continuous phase of the emulsion.

In other words, McEntee does not disclose a separate chemically functional layer, either explicitly or inherently.

The Examiner did not address this newly presented argument in the present office action. Considering of this argument and withdrawal of the rejections are respectfully requested.

In view of the above, the Applicant respectfully submits that McEntee in view of Paolini do not render independent claims 1, 4 and 7 obvious, and that McEntee in view of Montgomery further in view of Paolini do not render independent claim 9 obvious. Accordingly, the rejections of independent claims 1, 4, 7, and 9, and thus the rejections of claims 2, 3, 5, 6, 8, 10-27, 29, 31-33, and 53-65, which all depend from independent claims 1, 4, 7, and 9, are improper and should be withdrawn.

## **2. Conclusion**

Based on the above, the Applicant respectfully submits that the claims are in condition for allowance. The Examiner is kindly invited to contact the undersigned attorney to expedite allowance.

Respectfully submitted,

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